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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

KENNETH JAY FLYNN,

PLAINTIFF,

vs.

JERRY WALTARI, CALVIN T
CHRISTIAN, DARRELL
PETERSON, STEVE BROWN,
MARK PYRAK, K. DALE
SCHWANKE, JOHN WURZ, AND
DAVID A. HOFER

DEFENDANTS.

Cause No. CV 23-007-GF-BMM

**DEFENDANTS K. DALE
SCHWANKE, DARRELL
PETERSON, MARK PYRAK,
JOHN WURZ, AND DAVID
HOFER'S MOTION TO DISMISS
FOR LACK OF SUBJECT
MATTER JURISDICTION**

COME NOW Defendants K. Dale Schwanke, Darrell Peterson, Mark Pyrak, John Wurz, and David Hofer, by and through counsel, BIEHL LAW PLLC and FRONT RANGE LAW, PLLC, and moves this Court to dismiss Plaintiff's Complaint and Jury Demand pursuant to Rule(12)(b)(1) of the Federal Rules of Civil Procedure. Subject Matter Jurisdiction does not exist because there is not complete diversity between the parties. Also, this matter does not present a question or right based on federal law or the U.S. Constitution. A brief in support of this Motion is filed contemporaneously herewith.

DATED this 10th Day of March 2023.

BIEHL LAW PLLC

By /s/ Eric B. Biehl
ERIC B. BIEHL

FRONT RANGE LAW, PLLC

By /s/ Brittney A. Kuntz
BRITTNEY A. KUNTZ

Attorneys for K. Dale Schwanke, Darrell Peterson, Mark Pyrak, John Wurz, and David Hofer

CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2023 a copy of the foregoing was served on the following persons by the following means:

- CM/ECF
- Hand Deliver
- Mail
- Email
- Overnight Delivery Service

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